

Conversion from Audit to the VDA Program

Pursuant to 12 Del. C. § 1172(b), any holder currently under audit that received a notice of examination from the State Escheator on or before July 22, 2015, except any securities examinations in which estimation is not required, may convert the pending examination into a review under the Secretary of State's voluntary disclosure program under 12 Del. C. § 1173. This Secretary of State policy statement outlines the administrative requirements to convert, as well as the expected process to be followed by holders that choose to convert.

Administrative Requirements to Convert:

Eligible holders must file an executed copy of a Notice of Conversion within 60 days of the adoption of regulations pursuant to 12 Del. C. § 1176(b). The regulations are expected to be adopted on or before July 1, 2017. The Notice of Conversion must be signed by a duly authorized officer of the Company that is seeking to convert, and may be delivered in the following manner:

Via E-mail to VDAAdministratorSOS@delawarevda.com a PDF copy of this form which has been executed by an officer of the Company.

Alternatively, holders may send a copy of this form which has been executed by an officer of the company via Federal Express to:

Secretary of State of the State of Delaware
Delaware Voluntary Disclosure Program
c/o Noah Olson
222 Delaware Avenue, Suite 1410
Wilmington, Delaware 19801-1621



Draft Notice of
Conversion.docx

VDA Process for Companies that Convert their Examination

Unlike an audit, the VDA program is a self-review process in which the holder is expected to perform a rigorous self-review of its books and records for the entirety of the look-back period and present its findings of past due unclaimed property liability to the Secretary of State for validation, and ultimately settlement. The VDA program was designed, and will be administered, as an efficient and collaborative settlement process for determining the holder's past due unclaimed property.

For companies that convert their audit into a VDA, the expectations are the same. In order to expedite the resolution of an audit converted into a VDA, holders are not expected to begin the VDA process from the beginning. Further, the holder's audit work papers will not be transferred to the VDA Administrator, and there will be no coordination or consultation with the Department of Finance or any third-party audit firm regarding the holder's audit.

For many holders eligible to convert an audit into a VDA, the audit was previously scoped by the auditor in terms of property types and/or included entities. Since most of the analysis and review performed to date by the holder will be based on the property types / entities scoped in by the auditors, in the interest of efficiency, holders are expected to, at a minimum, utilize the same audit scope in the VDA. For audits that have been fully scoped (property types/years), the VDA Administrator and the holder will receive from the Department of Finance a memorandum describing the previously agreed upon scope of the audit. Holders may elect to expand the previously agreed to scope.

With respect to the remainder of the VDA, holders should utilize the records reviewed and analysis performed to date in the audit, as well as perform any additional self-review required, in order to present the holder's findings of past due unclaimed property liability to the Secretary of State for validation, and ultimately settlement. The presentation of the holder's findings shall be in accordance with the VDA program's Implementing Guidelines. Similarly, when the VDA report and schedules are presented, the findings will be validated by the Secretary of State's Office in accordance with the Implementing Guidelines. For holders that have substantially completed their audit that choose to convert to a VDA, the VDA process should be expedited and there is an expectation that the holder will conclude the VDA quickly.

As with any VDA, every holder that converts its audit into a VDA is understood to be unique. Not only with respect to the extent of review and analysis performed to date, but also with respect to its core operations, historic compliance history, availability of records, and abandoned and unclaimed property types to be reported. Therefore, holders that convert their audit into a VDA are encouraged to work with the VDA Administrator from the date of conversion to chart an efficient path to conclusion, and to resolve concerns or issues prior to the presentation of a final VDA report and schedules.

Look-Back period for Audits Converted to a VDA:

Pursuant to 12 Del. C. §1172(b), the look back period for audits that convert to VDAs is ten reporting years (or 15 transaction years) from the year the original Notice of Examination was received by the holder.

Partial VDAs:

If holders have formally resolved specific property types and/or entities in an executed settlement agreement with the Department of Finance prior to converting to a VDA, the VDA will only cover any remaining entities and property types.

Estimation:

The Secretary of State expects every VDA enrollee to reasonably estimate liabilities related to periods for which the holder's records are unavailable or insufficient to prepare a report of presumed past due unclaimed property liability. Estimation is not required for non-Delaware domiciled entities, and all estimated unclaimed property for any period a holder determines it

does not have available records would be reportable to the holder's state of incorporation or formation.

Pursuant to 12 Del. C. §1176(b), on or before July 1, 2017, the Secretary of Finance, in consultation with the Secretary of State will promulgate regulations regarding the method of estimation in order to create consistency in any audit or VDA. The regulations will address the permissible base periods, items to be excluded from the estimation calculation, aging criteria for outstanding and voided checks, and the definition of what constitutes complete and researchable records.

What if the holder cannot reach a settlement with the Secretary of State in the VDA Program?

If a settlement cannot be reached on a particular property type or for a particular entity, the property type or entity will be excluded from the final settlement and release agreement. Pursuant to 12 Del. C. § 1173(a)(4), any property types or entities excluded would be referred to audit. Similarly, if a settlement cannot be reached on any property type or entity, the holder would be referred back to audit.